

Message Text

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C O N F I D E N T I A L STATE 062587

E.O. 11652:GDS

TAGS: PI;S, PINT, SHUM

SUBJECT:STATUS OF THE 37 NAMIBIANS TRIED IN 1967-8 UNDER
TERRORISM ACT

REF: PRETORIA 2456 OF FEBRUARY 9, 1968.

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1. PATRICIA DERIAN, ASSISTANT SECRETARY FOR HUMAN RIGHTS
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AND HUMANITARIAN AFFAIRS, WILL ADDRESS A LUNCHEON MEETING
OF THE LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW HERE
ON THURSDAY, MARCH 16. AMONG MATTERS THAT WILL BE OF IN-
TEREST WILL BE WHAT HAS BECOME OF THE 37 NAMIBIANS WHO
WERE THEIR CLIENTS IN STATE V. TUHADELENI A DECADE AGO.
THAT CASE, OF COURSE, WAS THE FIRST UNDER THE TERRORISM
ACT AND WAS HOW THE LAWYERS' COMMITTEE CAME TO INTEREST

ITSELF IN SUPPORTING THE CONCERNS OF THE SOUTH AFRICAN BAR ABOUT THE RULE OF LAW (SEE, E.G., THE STATEMENT OF THE JOHANNESBURG BAR OF MAY 27, 1970.) IT RESULTED IN SECURITY COUNCIL CONSIDERATION OF NAMIBIA AND THUS CONTRIBUTED TO REFERENCE OF THE MATTER TO THE INTERNATIONAL COURT OF JUSTICE AND EVENTUALLY TO SC RES 385.

2. OUR RECORDS SHOW THE FOLLOWING REGARDING THE ACCUSED (TRIAL NUMBERS PRECEDE NAMES) AT THE TIME OF SENTENCING, FEBRUARY 8, 1968 -- WHERE KNOWN, THE INFORMATION IN PARENTHESES IS: MEMBER OF SWAPO EXECUTIVE (SWAPO); RELIGION (L LUTHERAN; RC ROMAN CATHOLIC; A ANGLICAN); AGE IN 1968; HEALTH:

(A) ACCUSED (AND ONE STATE WITNESS) WHO WERE FREED FOLLOWING JUDGMENT AND SENTENCING:

(1) SUSPENDED SENTENCES UNDER SUPPRESSION OF COMMUNISM ACT:

21 IMMANUEL GOTTLEIB NATHANIEL MACHUIRILI (SWAPO; BANNED IN NAMIBIA IN JULY, 1972). 22 JOHANNES GUANI IPUPO OTTO (SWAPO). 23 JASON DANIEL MUTUMBULUA (SWAPO).

(2) ACQUITTED: 25 MATEUS JOSEPH. 34 SINEON IPINGE IPUTA.

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(3) WITNESS GABRIEL MBINDI (68).

(B) ACCUSED WHO WERE SENTENCED TO FIVE YEARS: 26 JONAS NASHIVELA; 27 NATHANAEL LOT HOMATENI.

(C) ACCUSED WHO WERE CONVICTED, SENTENCED AND IMPRISONED ON ROBBER ISLAND:

(1) LIFE: 1 ELIASER TUHADELENI (SWAPO; L; 50; T.B. SUFFERER); 2 JOHANNES OTTO NANKUDHU (L; 36); 3 SIMSON SHIHUNGELI (L; 28; ASTHEMA); 4 JULIUS ISRAEL SHILONGO (L; 25?); 11 IMMANUEL AUGUSTUS SHIFIDI (L; 36); 12 KALEB TJIPAHURA (L; 26); 13 RUDOLF KADHIKWA (L; 26); 14 ABEL HALUTENI (RC; 25); 15 BETUEL NUNJANGO (L; 30); 16 MICHAEL IFINGILWA MOSES (39); 17 MAPIAS ELIA KANYUELE (A; 33); 18 MALAKIA SHIVUTE USHONA (L; 36); 19 JOHANNES SAMUEL SHIPONENI (L; 32); 20 PETRUS KAMATI (L; 32); 28 PHILLEMEN SHITILIFA (L; 28); 29 SIMEON NAMUNGAMGA HAMULEMO (L; 40); 30 SHININA NAIENG (60); 31 NDJAULA TSHANINGAU (59); 32 SAKEUS PHILLIPUS ITIKA (L; 59); 37 REHABEAM OLAVI NAMBINGA (L; 40).

(2) 20 YEARS: 5 LAZARUS ZACHARIAH (L; 33); 6 DAVID HAMUNIME SHIMUEFELENI (A; 27); 7 JOSEPH HELAO SHITYUVETE (RC; 28; MALARIA); 8 EINO KAMATI EKANDJO (L; 28); 9 FESTUS NEHALE (L; 36); 10 NGHIDIPO JESSAJO HAUFIKU (L; 34); 24 TOIVO HERMAN JA TOIVA (SWAPO); 35 NAFTALIE AMUNGULU (57); 36 PETRUS SIMON NILENGE (L; 59; T.B.).

3. THE FOLLOWING WILL INDICATE WHAT OUR RECORDS SUGGEST AND WHAT WE SEEK TO KNOW:

(A) GABRIEL MBINDI SETTLED HIS CLAIM FOR DAMAGES FOR INJURIES INFLICTED BY THE POLICE AND RETURNED TO HIS HOME IN NAMIBIA. WE WOULD LIKE TO KNOW IF HE SUBSEQUENTLY HAD PROBLEMS WITH THE AUTHORITIES, WAS RESTRICTED IN HIS LI-
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BERTY OR HAS SUFFERED ILL-HEALTH AND WHETHER HE IS ALIVE.

(B) OF THE THREE RELEASED ON SUSPENDED SENTENCES (MACHUIRILI, OTTO, MUTUMBULA) OTTO LED THE BOYCOT OF SAG CONTROLLED ELECTIONS IN OVAMBO IN 1973. HE WAS DETAINED UNDER THE EMERGENCY REGULATIONS AND SUBSEQUENTLY CHARGED WITH HOLDING ILLEGAL MEETINGS. AT THE ELECTIONS, ONLY 2.5 PER CENT ELIGIBLE VOTERS VOTED. OTTO SUBSEQUENTLY LEFT NAMIBIA IN 1974, ONE OF 1500 TO 2000 WHO DID SO. HE SOON TESTIFIED BEFORE A UNITED NATIONS COMMITTEE AND WE UNDERSTAND HE IS NOW AT LUSAKA. WE WOULD LIKE TO BE ABLE TO SAY SOMETHING ABOUT HIS WELL-BEING AND WHETHER HE IS EMPLOYED AND WHETHER HE IS ACTIVE WITH SWAPO AND IN WHAT CAPACITY. AS TO THE OTHERS WHO WERE RELEASED AFTER THE TRIAL IN 1968, WHAT HAVE THEY DONE SINCE RELEASE, WHAT PROBLEMS HAVE THEY ENCOUNTERED, ARE THEY FREE OF RESTRICTIONS ON THEIR LIBERTY AND HOW IS THEIR HEALTH?

(C) WE SEEK THE SAME SORT OF INFORMATION ABOUT THE TWO WHO WERE ACQUITTED (JOSEPH AND IPUTA).

(D) OF THE 29 SENT TO ROBBEN ISLAND WE KNOW NEXT TO NOTHING. WE UNDERSTAND THAT JA TOIVA IS ALIVE, THAT IN 1973 HIS MOTHER RECOUNTED TO BISHOP COLIN WINTER AT HER HOME IN OVAMBOLAND HOW MAGISTRATE VAN NIEKERK PREVENTED HER VISITING HER SON AND THAT WHEN THE BISHOP REMONSTRATED WITH THE MAGISTRATE HE WAS ORDERED OUT OF OVAMBOLAND (WINTER, C.O'B, "NAMIBIA" GRAND RAPIDS, MICH., 1977, PP 136-142). WE UNDERSTAND THE SAG IS CONSIDERING TRANSFER OF THE NAMIBIANS TO JAIL IN NAMIBIA. SC RES. 385 CALLS FOR THE RELEASE OF ALL NAMIBIANS ON ROBBEN ISLAND. INFORMATION WOULD BE APPRECIATED ON WHAT IS KNOWN AND CAN
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BE SAID ABOUT THEIR WELL-BEING (HEALTH, VISITS, CORRESPONDENCE, OTHER CONDITIONS OF IMPRISONMENT, INCLUDING DIET, EXERCISE, REQUIRED TYPE OF LABOR, RELIGIOUS OBSERVANCES, ETC.) AND ON WHAT OTHER NAMIBIANS ARE NOW THERE (IDENTIFYING TRIALS AND SENTENCES). WHAT IS NEW ON TRANSFER? HAS THE ICRC VISITED THE NAMIBIANS ON ROBBER ISLAND?

4. DEPARTMENT REALIZES COMPLETE ANSWERS WILL NOT BE PRACTICABLE. IT WOULD, HOWEVER, APPRECIATE BEST EFFORTS OF ADDRESSEES ON SUCH SHORT NOTICE TO CHECK OUT AVAILABLE SOURCES (GENEVA: LUTHERAN WORLD FEDERATION (SUGGEST CARL HELBERG AND CARL MAU); ICRC; INTERNATIONAL COMMISSION OF JURISTS (SUGGEST NIAL MACDERMOTT). LUSAKA: SWAPO, INSTITUTE. USUN: SWAPO; UN COMMISSIONER FOR NAMIBIA. LONDON: BISHOPS WINTER AND RICHARD WOODS (AFRICA BUREAU). PRETORIA: IN ADDITION APPROACHING YOUR SOURCES, GIVING US REFERENCES TO PARTICULAR PAST REPORTS MIGHT HELP). END LIMITED OFFICIAL USE.

5. BEGIN CONFIDENTIAL. DEPARTMENT WILL APPRECIATE SUPPLEMENTARY INFORMATION THAT SHOULD BE SEPARATELY CLASSIFIED, AS THIS COULD ENHANCE USEFULNESS ENTIRE REPORT IN CONNECTION ONGOING NEGOTIATIONS. END CONFIDENTIAL.

FOR LUSAKA: IN VIEW IMMENSE PRESSURES ON YOUR EMBASSY, SUGGEST YOU MIGHT MAKE COPY LOU PORTION THIS MESSAGE AND ASK PERSON YOU MIGHT CHOOSE IN SWAPO IF THEY COULD PROVIDE INFORMATION AVAILABLE TO THEM. VANCE

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